HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 280 OF 2006.

The Principal, Rizvi College of
Arts, Science & Commerce & Anr. ..Appellants.

Versus.

Parkar Kaiser Shamsuddin & Ors. ..Respondents.

Mr. G.S.Hegde i/b Mr. M.J.Shetty for the appellants.

Mr. M.M.Ganguli for the respondents.

CORAM: S. B. MHASE &
SMT. V.K.TAHILRAMANI,JJ.

DATE: JANUARY 10, 2007.

P.C.

1. Heard Mr. G.S.Hegde i/b Mr. M.J.Shetty at length. He submitted that he may be allowed to withdraw this L.P.A. with a liberty to approach the learned Single Judge. He made a statement, on instructions, that management desires to withdraw the impugned order of dismissal of the respondent from service, and instead desires to hold a de-novo inquiry against her after making payment of subsistence allowance. So far as the granting of liberty to withdraw the L.P.A. is concerned, we accept the said prayer and we grant leave to the appellant to withdraw this L.P.A.. Apart from that since this L.P.A. arises as against an interlocutory order, which is well reasoned, we are not inclined to entertain this L.P.A.

2. So far as the offer made by Mr. Hegade is concerned, i.e., withdrawing the impugned order of dismissal of respondent and holding de-novo inquiry on payment of subsistence allawonce is concerned, we make it clear that the matter has arisen before us from an interlocutory order. The main matter is pending before the learned Single Judge, since the learned Single Judge has admitted the matter by issuing rule. Whether such a liberty is to be granted or not, is a question to be considered by the learned Single Judge in an appropriate application, if filed by the appellant. Therefore, we refrain ourselves from expressing any view or clarification in this aspect of the matter. We only make it clear that if the Management desires to follow this course, the Management may make an approrpriate aplication before the learned Single Judge and if such an application is made, the learned Single Judge shall decide the same on its own merits after hearing other side. With these observations, L.P.A. is disposed of. In view of the disposal of the LPA, civil applications taken out in this matter do not survive and they also stand disposed of.

(SMT. V.K.TAHILRAMANI,J.) **(S.B.MHASE, J.)**

:sachin/2007/vkt/..